



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,898	02/02/2000	Rod Stambaugh	032397-009	5435

35437 7590 09/11/2006

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO  
666 THIRD AVENUE  
NEW YORK, NY 10017

EXAMINER

SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/495,898

Applicant(s)

STAMBAUGH, ROD

Examiner

Cristina Owen Sherr

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-8,10,12,14-17,20-24,26-30 and 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,6-8,17, 20-24,26-30 is/are allowed.
- 6) ☒ Claim(s) 14-16 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other \_\_\_\_\_

Art Unit: 3621

### DETAILED ACTION

1. This communication is in response to applicant's amendment filed June 14, 2006. Claims 1, 17, and 30 have been amended. Claims 1-2, 4, 6-8, 10, 12, 14-17, 20-24, 26-30, and 35 are pending in this case.

### *Response to Arguments*

2. Applicant's arguments, see applicant's amendment, filed June 14, 2006, with respect to independent claims 1, 17, and 30, as currently amended, have been fully considered and are persuasive. The rejections of independent claims 1, 17 and 30, and their dependent claims 2, 4, 6-8, 10, 12, 27-28, 20-24, 26, and 30 has been withdrawn: 2

3. Applicant's arguments, with respect to independent claims 14 and 35 filed June 14, 2006 have been fully considered but they are not persuasive.

4. With respect to claim 14, applicant argues that nothing in the cited art discloses the ability of a customer remotely communicating an action with the server over the Internet so that the server communicates the action to a wireless transaction terminal.

Attention is directed to Pare at, e.g.,:

"In another embodiment of the invention, the buyer is remote from the seller, and transaction proposals and other information is transmitted from seller to buyer and vice versa using a computer network such as the Internet". (col. 5 ln 64-67).

"In most instances, the buyer being identified and the computer system are remote and physically separate from each other". (col 6 ln 9-11).

Applicant's arguments have been fully considered but they are not persuasive.

Applicant's arguments have been fully considered but they are not persuasive.

Attention is directed to Pare at, e.g.,:

Art Unit: 3621

"The Wireless version of BIA hardware is identical to the Standard model in construction, except that it communicates with the terminal using a spread-spectrum wireless communications module instead of a standard serial port.

This version is designed to be used in locations such as restaurants, where transactions are authorized at the buyer's convenience.

This device contains no Serial Port, however it does have an external antenna, and a spread-spectrum wireless serial transmission unit for communicating with the remote cash register Terminal". (col. 14 ln 5-16).

5. With respect to claim 35, applicant argues that nothing in the cited prior art discloses a feature for providing replies for use in transaction processing to the transaction terminal prior to or during a transaction. Attention is directed to Pare at, e.g., col 57, ln 58-col 58, ln 39:

#### "1.6.1. Retail Point of Sale Terminal

In this case, an RPT communicates with a retail BIA and the DPC to authorize a transaction. The transaction amount is 452.33, the buyer's financial account is 4024-2256-5521-1212 seller identification code is 123456, and the buyer's private code is "I am fully persuaded of it."

RPT.fwdarw.BIA Set Language <English>

BIA.fwdarw.RPT OK

RPT.fwdarw.BIA Get Biometric <20>

BIA/LCD: <Please place finger on lighted panel>

Art Unit: 3621

Buyer places finger on scanner

BIA.fwdarw.RPT OK

RPT.fwdarw.BIA Get Pin <40>

BIA/LCD: <Please enter your PIN, then press <enter>>

Buyer enters PIN, then <enter>

BIA.fwdarw.RPT OK

RPT.fwdarw.BIA Get Account Index Code <40>

BIA/LCD: <Now enter your account index code, then press <enter>>

Buyer enters code, then <enter>195,898

BIA.fwdarw.RPT OK

RPT.fwdarw.BIA Validate Amount <452.33> <40>

BIA/LCD: <Amount 452.33 OK?>

Buyer enters OK

BIA.fwdarw.RPT OK

RPT.fwdarw.BIA Assign Register <1> <123456>

BIA.fwdarw.RPT OK

RPT.fwdarw.Form Message <Commercial Transaction Message>

BIA.fwdarw.RPT <Commercial Transaction Message> Press <enter>>

BIA.fwdarw.RPT OK

BIA/LCD: <I'm talking to DPC Central>

RPT.fwdarw.DPC <Commercial Transaction Message>

Art Unit: 3621

DPC: validate biometric, retrieve financial account number.fwdarw.4024-2256-5521-1212

DPC.fwdarw.VISA <authorize 4024-2256-5521-1212 452.33 123456>

VISA.fwdarw.DPC <OK 4024-2256-5521-1212 452.33 123456 autho-code>DPC: get private code

DPC.fwdarw.RPT <Transaction Response Message>

RPT.fwdarw.BIA Show Response <Transaction Response Message> <8>

BIA/LCD: <Transaction ok: I am fully persuaded of it>

BIA.fwdarw.RPT <OK <autho-code>>RPT: prints receipt with autho-code on it".

6. It is inherent that that the responses are stored on the terminal prior to the transaction. While nothing in Pare indicates that both storage of the responses prior to a transaction *and* responses being sent from device to device for display may be done, the claim indicates through the language "or" that one of these is enough.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 14-16, 29 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pare, Jr. et al (US 5,870,723).

9. Regarding claim 14 –

Art Unit: 3621

Pare discloses a method for transaction processing comprising: a server receiving an action from a customer remotely communicating with the server via the Internet, the action for application on a wireless transaction terminal in communication with the server; and the server communicating the action to the transaction terminal to apply the action thereto (e.g. col. 5 ln 64-67; col 6 ln 9-11; col 14, ln 5-16).

10. It is obvious that communications may occur between back and forth between a wireless or integrated point of sale, a server and a networked computer, whether by way of Internet or any other network.

11. Regarding claim 15 –

Pare discloses the method of claim 14, wherein the desired action is terminal activation or deactivation (e.g. col 42 ln 6-14).

12. Regarding claim 16 –

Pare discloses the method of Claim 14, wherein the desired action is terminal diagnostics (e.g. col 42 ln 6-14).

13. Regarding claim 29 –

Pare discloses the method according to claim 14, wherein the desired action is changing information stored on the transaction terminal (e.g. col 58 ln 29-30).

14. Regarding claim 35 –

Pare discloses a server for transaction processing, comprising: a processor for receiving and processing first transaction information for a pending transaction from a wireless transaction terminal; communication means for: providing replies for use in transaction processing to the transaction terminal prior to or during a transaction;

Art Unit: 3621

sending second transaction information based on the first transaction data to a transaction processor for obtaining approval information for the pending transaction; receiving the approval information from the transaction processor, and forwarding all or a portion of the approval information to the transaction terminal; wherein the server accesses a memory for storing the first transaction information and wherein the stored transaction information is accessible via the Internet (e.g. e.g., col 57, ln 58-col 58, ln 39).

15. It is inherent that that the responses are stored on the terminal prior to the transaction. While nothing in Pare indicates that both storage of the responses prior to a transaction *and* responses being sent from device to device for display may be done, the claim indicates through the language "or" that one of these is enough.

**Allowable Subject Matter**

16. Claims 1-2, 4, 6-8, 10, 12, 17, 20-24, 26, 27-28 and 30 are allowed. Nothing in the prior art teaches discloses or suggests two (2) modes of operation, where the first server is delayed in the first mode and the first server is not delayed in the second mode.

17. Thus, independent claims 1, 17 and 30 and their dependent claims 2, 4, 6-8, 10, 12, 20-24, and 26-28 are deemed allowable.

18. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures



Art Unit: 3621

may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Reber et al. (US PAT. 5,903,767) discloses transaction methods, system, and devices using a first and second data.

21. Kolling et al (US PAT. 5,920,847) discloses electronic bill payment system using PC, telephone keypad, screen telephone or PDA.

**22. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

23. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. *Conclusion* In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3621

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Andrew Fischer* 9/5/06  
**ANDREW FISCHER**  
**PRIMARY EXAMINER**

COS, 08/31/06

Information regarding the status of an application may be obtained from either Private PAIR or Public PAIR.

For more information about the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a